

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2012-010276-001 DT

07/15/2014

HONORABLE BRUCE R. COHEN

CLERK OF THE COURT
A. Beery
Deputy

STATE OF ARIZONA

EDWARD G PAINE
RICHARD D COFFINGER

v.

JEFFREY DAVID MEYN (001)

ROBERT L STORRS
STACY LYNN HYDER

RULING ON SCOPE OF RESTITUTION CLAIMS

The court took under advisement the issue of whether a lost future earnings claim could be brought by the State on behalf of the victims in this matter. The court has considered the oral argument, the pleadings filed, the applicable law and the overall case history.

This court recognizes that the law may not be well-settled on the issue of a lost future earnings claim for surviving victims of the deceased. The court also acknowledges that there are complexities presented when addressing civil remedies versus criminal restitution. Nonetheless, the court must rely upon its interpretation of what appears to be the intent and purposes of restitution.

First, it is the view of the court that liability is not at issue herein. That issue was settled when defendant pled guilty in this matter. Second, the issue of comparative negligence is specific to civil law, and the extent to which it applies herein is limited to the analysis of the factors noted in *State v Madrid*, 207 Ariz. 296, 85 P. 3d. 1054 (2004). Third, there is no right to a jury trial for determination of a restitution claim brought under a criminal proceeding. Fourth, the goal of restitution is to make victims “whole” for losses suffered as a result of the criminal actions of a defendant. While nothing could come close to making these victims “whole” in the

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literal sense given the devastating losses suffered, the term “whole” herein refers strictly to economic losses. Fifth, lost earnings are specifically referenced as recoverable under ARS Section 13-105(16). Sixth, under the rationale set forth in *State v Howard*, 168 Ariz. 458, 85 P.2d. 5 (1991), lost earnings claims cannot rationally be limited to those lost earnings that accrued through the date of the restitution hearing, as that would subject the claim for lost earnings to the timing of defendant’s conviction and sentencing, whether by plea or trial. Finally, while it is clear that determining the amount of loss suffered for uncertain future events presents unique challenges, those challenges do not serve to bar the pursuit of those claims.

IT IS THEREFORE ORDERED that the State may pursue a claim for lost future earnings as part of the restitution claim brought on behalf of the victims in this matter. The full scope and procedure for the restitution hearing shall be addressed at the Status Conference set for **August 14, 2014 at 8:30 a.m.** in this division.

In addressing the claim for future lost earnings, the court notes that there are viable issues relating to the factoring in inflation, present value determinations, offsets for state and federal benefits designed to replace lost earnings and a myriad of other factually driven issues. These matters shall impact the determination of the amount of the lost future earnings claim, and the parties should be prepared at the Status Conference to address the manner in which they intend to confront these issues.

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>. Attorneys are encouraged to review Supreme Court Administrative Order 2011-140 to determine their mandatory participation in eFiling through AZTurboCourt.